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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,407	08/11/2006	Celine Bonnefous	MS0043P	7145
210	7590	07/22/2009	EXAMINER	
MERCK AND CO., INC			MCDOWELL, BRIAN E	
P O BOX 2000				
RAHWAY, NJ 07065-0907			ART UNIT	PAPER NUMBER
			1624	
			MAIL DATE	DELIVERY MODE
			07/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/589,407	BONNEFOUS ET AL.
	Examiner	Art Unit
	BRIAN McDOWELL	1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 6/4/2009.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 35-49 is/are pending in the application.
 4a) Of the above claim(s) 45 and 47 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 35-42, 44, 46, 48 and 49 is/are rejected.
 7) Claim(s) 43 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

/BEM/

DETAILED ACTION

Status of Claims

New claims 35-49 are pending in the instant application. Claims 1-34 are cancelled.

Status of Restriction Requirement and Election of Species

Claims 45 and 47 are not commensurate in scope to applicant's elected species (example 25 of the instant specification, see the discrepancy in substituent R₂).

Therefore, these claims are withdrawn from consideration.

Status of Claim Objections

Applicant's cancellation of claim 33, see Remarks, filed 6/4/2009, with respect to the Non-Final Office Action mailed 3/5/2009, has been fully considered and the objection has been overcome.

Status of Rejections

35 USC § 112 (2nd Paragraph)

Applicant's cancellation of claims 27-29, see Remarks, filed 6/4/2009, with respect to the Non-Final Office Action mailed 3/5/2009, has been fully considered and the rejection has been overcome.

35 USC § 102

Applicant's amendment of claim 35 (in reference to the 102 rejection of claims 20-26 and 34) see Remarks, filed 6/4/2009, with respect to the Non-Final Office Action mailed 3/5/2009, has been fully considered and the rejection has been overcome.

New Objections and Rejections

Claim Rejections - 35 USC § 102

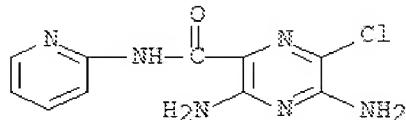
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 35-42, 44, 46, and 49 are rejected under 35 U.S.C. 102(b) as being anticipated over Shepard *et al.* (US Patent 3,573,306).

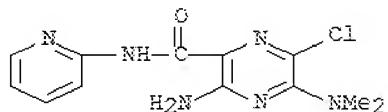
Shepard *et al.* teach the following compound: N-(2-pyridyl)-3,5-diamino-6-chloropyrazinecarboxamide (see attached abstract),



wherein R₁ = H, R₂ = Cl, and R₃₋₄ = amino that read on the aforementioned claims and are therefore anticipated.

Claims 35-42, 44, 46, 48, and 49 are rejected under 35 U.S.C. 102(b) as being anticipated over Cragoe *et al.* (US Patent 3,577,418-mentioned in IDS).

Cragoe *et al.* teach the following compound (see col. 27, line 1):



wherein R₁ = H, R₂ = Cl, R₃ = dimethylamino, and R₄ = amino that read on the aforementioned claims and are therefore anticipated.

Conclusion

No claims are allowed.

Claims 43 is objected to as being dependent upon a rejected base claim, but would possibly be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Potential Reasons for Allowance

Claim 43 is potentially novel in respect to compounds possessing hydrogen and methyl substituents at variable R₃.

The limitations listed supra represent the limitations that are not taught or fairly suggested by the prior art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN MCDOWELL whose telephone number is (571)270-5755. The examiner can normally be reached on Monday-Thursday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson can be reached 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.E.M./

Examiner, Art Unit 1624

/James O. Wilson/

Supervisory Patent Examiner, AU 1624